

Terms of Reference

IDH Sustainable Trade Initiative

[Consultancy for the development of a business case for the implementation of a land registration pilot]

1. Introduction

IDH Sustainable Trade Initiative ("IDH") accelerates and up-scales sustainable trade by building impact-oriented coalitions of front running companies, civil society, governments, knowledge institutions and other stakeholders in several commodity sectors. We convene the interests, strengths and knowledge of public and private partners in sustainability commodity programs that aim to mainstream international and domestic commodity markets. We jointly formulate strategic intervention plans with public and private partners, and we co-invest with partners in activities that generate public goods.

Investments in land restoration and sustainable land management (SLM) practices are needed to avoid, reduce and reverse land degradation. However, project preparation can be a major bottleneck for investments in restoration and sustainable land management. The Land Degradation Neutrality (LDN) Technical Assistance Facility (TAF) was established to help reduce this bottleneck and link projects to the LDN Fund and LDN impacts. This facility is managed by IDH The Sustainable Trade Initiative. The LDN TAF can provide grants and reimbursable grants to (potential) LDN investment projects, to improve technical quality and enhance environmental and social impacts, so that the investment project meets the LDN Fund's investment criteria. More information on the LDN TAF can be found at <https://www.idhsustainabletrade.com/landscapes/ldn-taf/>.

On basis of these Terms of Reference ("ToR") IDH aims to select a party to develop a business case for financing a tree registration pilot. Indeed, land registration is an important challenge for sustainability in the cocoa sector. Land registration is a means of encouraging cocoa farmers to adopt sustainable practices, particularly agroforestry. It also allows them to secure their investments in forest trees and to benefit from tree ownership as described in the new forestry code. However, the high costs and extremely lengthy process do not allow farmers to finance the process and to register their land.

2. Background

Ecookim Coop-Ca (from here: Ecookim) is a union of cooperatives that buys, processes and exports cocoa beans in Côte d'Ivoire. Ecookim is growing steadily and currently has 30 member cooperatives and about 30,000 producers covering an area of about 97,000 hectares of cocoa, and 1,472 cashew producers on 9,390 hectares. More information about Ecookim can be found at <http://ecookim.com/>.



To help farmers restore degraded farmland and build resilience to climate change, Ecookim is looking to expand an agroforestry rollout initiated in 2021 through its cocoa cooperatives and their members. The LDN fund and IDH's ISLA programme supported Ecookim in 2022 to roll out this programme to around 20 cooperatives.

As part of this project, a study was commissioned and conducted by NITIDAE to analyse the profitability of and access to finance for agroforestry. The results of this study highlighted the areas to be financed in order to ensure the profitability and sustainability of cocoa farms. One of the areas mentioned is support to cocoa farmers to obtain their land registration documents. Indeed, before the new forestry code, producers did not benefit from the income from forest trees on their plots. It was the forestry concessionaires who had the right to come and cut down the tree, even without the agreement of the producer, in which case they paid a derisory sum close to 2,000 FCFA per tree (and often nothing at all). This sum cannot even cover the possible damage caused to the plot by the logger. This is why planters see forest trees as a risk to the plantation.

The new forestry code has changed this situation; it is the landowner who now has ownership of the tree, and therefore the power to decide on forestry exploitation. However, it was only promulgated in 2019, which is very recent, and the application decrees have not all been promulgated, preventing it from being fully operationalized. No concrete steps have been taken to ensure that farmers can benefit from this change in law.

On the other hand, land ownership is most often informal (customary law). For a cocoa farmer, it is generally impossible to provide an official document (certificate or land title) to prove that he or she is the owner of the plot, and therefore of the trees. Moreover, in the cocoa sector, many planters are sharecroppers and therefore do not own their land.

In order to enable producers to see forest trees as opportunities (agronomic and economic), it is essential to accompany them in the formalization of land rights. These points have already been raised in several studies and articles. In addition, a study conducted in Ghana also showed that obtaining a land certificate was linked to an increase in cocoa income for farmers: producers benefiting from such security would be more inclined to invest, allowing for better yields.¹

As far as the cost of the process is concerned, obtaining a certificate individually for a planter is too expensive, since soliciting a land operator is an expensive service that can only pay for itself if the surveyor comes to reference a large number of plots. There is therefore an important economy of scale in carrying out the procedures for a large number of producers at the same time. Depending on the actors interviewed, the costs differ, but if we take everything into account, for the grouped certification of at least several hundred producers, we arrive at a total cost of approximately 100,000 to 130,000 CFA francs per certificate, for plots of land between 3 and 10 hectares.

The land certificate is considered very important to producers, but producer groups currently cannot contract organisations that support them in the registration process because the costs are prohibitive

¹ Exploring the Motivations and Role of Farmers in the Effective Implementation of Supply Chain Sustainability in Ghana and Côte d'Ivoire, June 2020, Climate Focus



and they are unfamiliar with the service providers and processes. A financing product where a farmer group can access a loan for this activity, as well as support in contracting an appropriate service provider could be a potential solution.

IDH is interested in running a land registration financing pilot to support cocoa farmers in setting up their land registration documents. The pilot would consist of supporting cocoa farmers by providing them with the access to financing for obtaining their land ownership documents. The land registration would be financed by medium-term repayable loan from microfinance institutions to cocoa farmers.

This assignment is a feasibility study of such pilot.

3. Assignment

Objectives

The overall objective of this assignment is to build and assess a business case for financing a land registration financing pilot.

Specifically, the work will consist of:

- Assessing the cocoa farmers' interest in getting access to such product: running a study through surveys and focus groups with cooperative members to understand their interest, capacity and willingness to borrow for the Certificats Fonciers (CF) as a credit product.
- Identifying the most likely coop(s) to Implement the pilot
- Scoping out the possibility of Certificats Fonciers (CF) as a credit product with Microfinance Institutions and Ecookim – understanding the modalities of how the two entities would work together, mapping out roles and responsibilities.
- Outlining the funding flows between the financier, the coop and farmers and back to the financier.
- Defining the credit facility for CF – size, amount, tenor, repayment profile.
- Building a business case of how this would work as a credit product: outlining approaches to additional revenues that acquiring a CF could bring to the farmer – agroforestry/nurseries/cocoa rehabilitation/carbon/ etc., summarizing the costs entailed in acquisition vs the revenues that can be obtained. Modelling out potential cash flows.
- Outlining the key risks and discuss credit risk management – what happens in case of a default from the farmer? Does the CF get taken over by the cooperative? How does it work with similar credit products that do not lead to increased income (school loans? Other legal products?)



- Reviewing and assessing the benefits and challenges of acquiring certificates as a guarantee against future borrowing for a farmer – can the presence of a certificate lead to lower costs and or reduced risks for a financial service provider? Does it improve access to finance for farmers? (How) Could this guarantee technically be enforced? Are there similar practices in CDI/neighbouring countries?
- Outlining the extent to which the CF enables and enhances greater access to finance for cocoa producers.
- Assessing and shortlisting technical partners to map and deliver the CFs (eg FOA/Meridia/others); any data/infrastructure requirements and costs involved.
- Assessing technical needs for farmers, cooperatives, the financier and Ecookim to implement such a credit product.
- Proposing the design of a pilot project, detailing out the overall budget, activities, product to be tested, key parties, timeline, coops/# of farmers, KPIs, etc.

Deliverables

The deliverables of this assignment will be:

Deliverables of assignment	Deadline
Draft feasibility study report including all the specific requirements.	17/07/2023
Draft pilot project detailing out the overall budget, activities, product to be tested, key parties, timeline, coops/# of farmers, KPIs, etc.	24/07/2023
Presentation of the report to IDH, Ecookim, MFI partners and potential service providers during a halve day workshop	02/08/2023
Final report integrating all IDH and partner comments	11/08/2023

4. Selection Procedure

The procedure will be as follows:

1. Publishing the tender and/or inviting services providers to submit a proposal based on this ToR.
2. Option to submit questions regarding the assignment and the ToR. Questions will be answered via an information notice that will be shared with all consultants that indicated their interest in the assignment or submitted questions.



3. Evaluation of the proposals by the chair of the evaluation committee. The 3 proposals that receive the highest scores will be presented to the evaluation committee. Evaluation of the proposals by the evaluation committee. The evaluation committee will evaluate the proposals based on the selection criteria as published in this ToR.
4. Decision on selection of the service provider.
5. Inception meeting with the selected service provider.

The schedule below indicates the timelines for the tender procedure:

Tender process	Timeline
ToR published	24/04/2023
Closing date questions*	02/05/2023
Publication of information notice	05/05/2023
Deadline for submission of proposals**	19/05/2023
Selection of Service provider	26/05/2023
Start of assignment	05/06/2023

* Questions received by IDH after this date will not be answered.

** Proposals submitted after the deadline will be returned and will not be considered in the tender procedure.

After the deadline to submit a proposal has passed, the evaluation committee will evaluate the proposals.

The proposals will first be tested for completeness:

- The absence of the documents referred to in Section 6 of this document can lead to exclusion from further participation in the tender procedure. This is also the case when minimum requirements listed in this ToR are not met.
- If the proposal is complete, the selection committee will evaluate the proposal based on the criterion as mentioned in section 6.

Questions

Questions regarding the assignment or the ToR can be submitted until 02/05/2023 5.00 pm CET, by e-mail to hounkponou@idhtrade.org with the express mention: "Questions tender [Consultancy for the development of a business case for the implementation of a land registration pilot]".



Questions must be submitted in the English language and using the Template Question Form, attached to this ToR as annex 2.

The submitted questions will be grouped, anonymized, and combined in an information notice. This notice will be sent to all consultants in a reply to the e-mail in which the questions were submitted.

The responsibility for the timely and accurate submission of the questions lies with the service provider. When IDH indicates that questions have not been received by IDH before the indicated deadline, the service provider must demonstrate that the questions were sent timely.

5. Proposal requirements

IDH is requesting the service providers to hand in a proposal of maximum 10 pages (excluding company biographies, CVs, sample work and references). The proposal must be handed in a MS Word or PowerPoint version next to a PDF submission to facilitate any copy-and-pasting of content that we may need during evaluation. The total budget should not exceed 50 000 Euros inc of all taxes.

The proposal must at least include:

Content:

- a. A succinct, well-documented approach addressing the requirements set out this ToR. We request that the proposal structure match the selection criteria as closely as possible
- b. Maximum of three client references and a sample of previous work relevant to the deliverables in this ToR
- c. An overview of the project team, including the CVs of the project team members
- d. Budget presented in Euros (ex VAT) with a break-down of days/rate per project team member
- e. Statement on Ground for exclusion (see section 7 below)

Administrative:

- f. Completed detail request form (annex 3)
- g. Copy of most recent (audited) financial accounts
- h. Statement of acceptance draft contract (annex 6)
- i. Statement of integrity (annex 7)



The proposal must be submitted to hounkponou@idhtrade.org before 19/05/2023 at 5pm GMT.

6. Testing and weighing

The assignment will be awarded to the service provider with the most economically advantageous tender. The most economically advantageous tender is determined on the basis of the evaluation criteria of price and quality.

Grounds for exclusion

1. Service providers shall be excluded from participation in this tender procedure if:
 - a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
 - c) they have been guilty of grave professional misconduct proven by any means which the IDH can justify;
 - d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established, or with those of the Netherlands or those of the country where the contract is to be performed;
 - e) they or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization, money laundering or any other illegal activity.

Service providers must confirm in writing that they are not in one of the situations listed above.

2. Service providers shall not make use of child labor or forced labor and/or practice discrimination and they shall respect the right to freedom of association and the right to organize and engage in collective bargaining, in accordance with the core conventions of the International Labor Organization (ILO).

Scoring and weighing

The evaluation criteria are compared and weighed according to the procedure below. This concerns a general outline of the scoring methodology and an explanation how the service provider can demonstrate compliance with the requirements.



Step 1 - Criterion Quality

Evaluation scores will be awarded for each of the components. The evaluation committee will score each component unanimously.

The proposal will be assessed based on the following selection criteria:

Component		Criteria	Max. Grading
1	Proposal overall	The extent to which the proposal meets the requirements set out in Section 3 above and throughout this document. Can the Service provider deliver the requirement deliverables? Will the Service provider be able to deliver a comprehensive solution?	5
2	Design and Development process	<p>The extent to which the Service provider demonstrates that a clear design and development process will be followed and IDH is adequately consulted for input during the design and development.</p> <p>The extent to which it is clear what is required of IDH in terms of human resources, digital assets and other input to deliver the project without being too onerous on our staff.</p>	5
3	Track record	<p>The extent to which the Service provider presents the required level of expertise and knowledge to fulfil the requirements both at team member and company level.</p> <p>To extent to which the Service providers gives a clear description of the project team, relevant (delivering similar projects) experience of team members and time allocation per team member.</p> <p>[Relevant experience in non-profit sector is advantageous.]</p>	5

The evaluation committee will unanimously score each component by assigning scores from 1 to the maximum grading, with the maximum grading representing optimal performance on the component and 1 representing extremely poor performance on the respective component.

Step 2 - Criterion price

A combined price in Euros (ex VAT) is to be presented. This is to be broken down by team member rate and hours.



The criterion of assessment is “the best price for the proposed level of quality” with a maximum grading of 5.

Step 3 - Weighting

The final score will be weighted 70% on Quality and 30% on Price.

If scores of service providers are equal, priority will be based on the total scores that were given for the Criterion Quality. The assignment will be awarded to the service provider that has received the highest score for the Criterion Quality. If the evaluation of the Criterion Quality does not lead to a distinction, the score for the component “Proposal overall” will be decisive. If this does not lead to a distinction, the ranking will be determined by the drawing of lots.

Award

Once IDH has decided to which Service provider it intends to award the assignment, a written notification thereof is sent to all Service providers participating in the tender procedure.

The Service provider is contracted via a letter of assignment, following IDH’s template (Annex 4).

7. Communication and Confidentiality

The Service provider will ensure that all its contacts with IDH, with regards to the tender, during the tender procedure take place exclusively in writing by e-mail to HOUNKPONOU Germain via hounkponou@idhtrade.org. The Service provider is thus explicitly prohibited, to prevent discrimination of the other Service providers and to ensure the diligence of the procedure, to have any contact whatsoever regarding the tender with any other persons of IDH than the person stated in the first sentence of this paragraph.

The documents provided by or on behalf of IDH will be handled confidentiality. The Service provider will also impose a duty of confidentiality on any parties that it engages. Any breach of the duty of confidentiality by the Service provider or its engaged third parties will give IDH grounds for exclusion of the Service provider, without requiring any prior written or verbal warning.

All information, documents and other requested or provided data submitted by the Service providers will be handled with due care and confidentiality by IDH. The provided information will after evaluation by IDH be filed as confidential. The provided information will not be returned to the Service provider.



8. Disclaimer

IDH reserves the right to update, change, extend, postpone, withdraw, or suspend the ToR, this tender procedure, or any decision regarding the selection or contract award. IDH is not obliged in this tender procedure to make a contract award decision or to conclude a contract with a participant.

Participants in the tender procedure cannot claim compensation from IDH, any affiliated persons or entities, in any way, in case any of the afore-mentioned situations occur.

By handing in a proposal, participants accept all terms and reservations made in this ToR, and subsequent information and documentation in this tender procedure.

9. Annexes

Annex 1: Funders' note: Financing the transition to sustainable cocoa production, Nitidae, 2022

Annex 2: Template Question Form

Annex 3: Detail request form

Annex 4: Letter of Assignment

Annex 5: IDH General Terms and Conditions for Services

Annex 6: Statement of acceptance draft contract

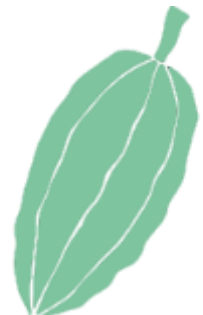
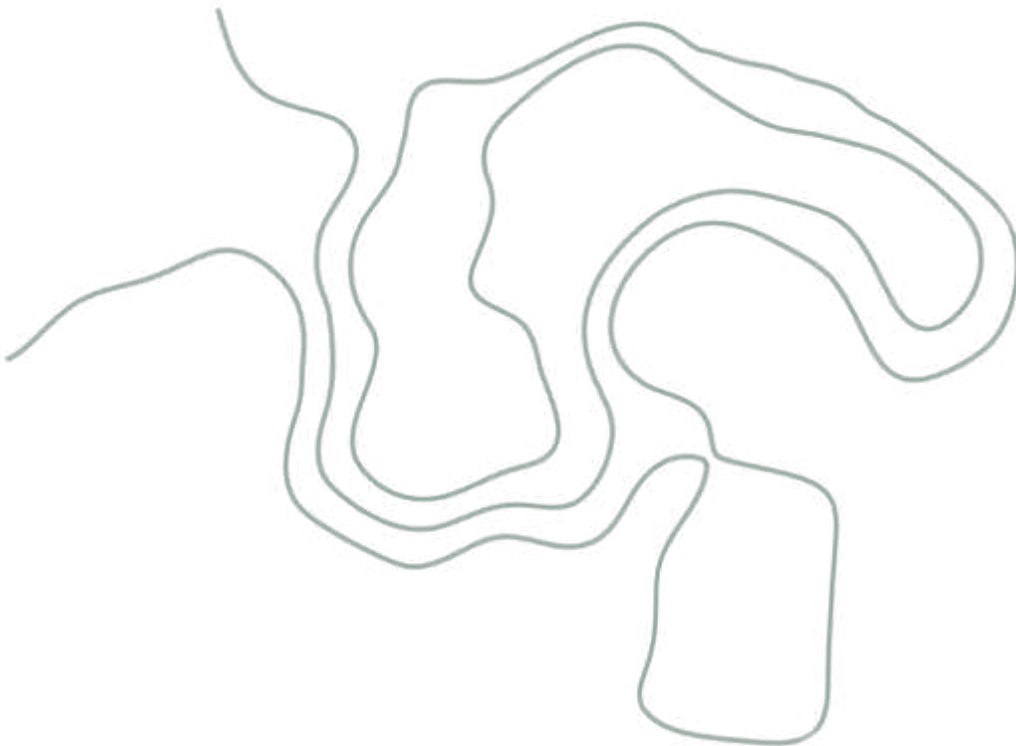
Annex 7: Statement of integrity



Funders' note

For the financing of the
accompaniment to the land
certification

November 2022



Issues surrounding land certification

Before the new forestry code, producers did not benefit from the income from forest trees on their plots. It was the forestry concessionaires who had the right to come and cut down the tree, even without the agreement of the producer, in which case they paid a derisory sum close to 2,000 FCFA per tree (and often nothing at all). This sum cannot even cover the possible damage caused to the plot by the logger. This is why farmers see forest trees as a risk for the plantation. This makes it difficult to adopt tree planting practices such as the densification of agroforestry systems.

The new forestry code has changed this situation; it is the landowner who now has ownership of the tree, and therefore the power to decide on forestry exploitation. However, it was only promulgated in 2019, which is very recent, and the application decrees have not all been promulgated, preventing it from being fully operationalized. No concrete steps have been taken to ensure that farmers can benefit from this change in the law. On the other hand, land ownership is most often informal (customary law). For a cocoa farmer, it is generally impossible to provide an official document (certificate or land title) to prove that he or she is the owner of the plot, and therefore of the trees. Moreover, in the cocoa sector, many planters are sharecroppers and therefore do not own their land.

In order to enable producers to see forest trees as opportunities (agronomic and economic), it is therefore essential to accompany them in the formalization of land rights. These points have already been raised in several studies and articles^{1,2}. In addition, a study conducted in Ghana also showed that obtaining a land certificate was linked to an increase in cocoa income for farmers: producers benefiting from such security would be more inclined to invest, allowing for better yields³.

The different types of land documents

In the case of Côte d'Ivoire, there are 3 types of land documents:

- The land title
- The land certificate
- The land use agreement

According to Ivorian law, only the land title is an intangible and permanent document to prove ownership of land. The land certificate is a simpler document to obtain because it does not require land registration procedures, but it is less "powerful" than the land title, and is supposed to be temporary until the final title is obtained. The land use contract is an official document attesting that a landowner has agreed to sign a land use contract (sharecropping) with another individual, according to terms agreed upon by both parties. In fact, it is necessary to be an Ivorian national to obtain a land title, which poses a problem for migrants, who represent the majority in the cocoa sector.

In recent years, the Ivorian state has been relaxing the land law in order to make the land certificate permanent and as "powerful" as the land title. Indeed, securing land tenure is a priority for the government, in order to guarantee social peace, but the procedures leading to the land title are so complicated and costly that they represent the main obstacle to securing land tenure today. Thus,

¹ Legal framework for agroforestry in rural Côte d'Ivoire, April 2021, EFI, Client Earth, REDD

² Sustainable cocoa production in Côte d'Ivoire: financing needs and solutions for producers, EFI

³ Exploring the Motivations and Role of Farmers in the Effective Implementation of Supply Chain Sustainability in Ghana and Côte d'Ivoire, June 2020, Climate Focus

several projects aim to democratize the obtaining of land certificates and land use contracts, while the land title is left aside. The spirit of the government's action in this direction is therefore to rely on the **land certificate** as a permanent formalization of land rights in the rural domain.

Stages of support for land certification

Several projects have been carried out in recent years to assist producers in obtaining land documents.

For example, Nitidae conducted such a program as part of its PRM project, which started in 2017 in the region of la Mé and whose objective was the issuance of 350 land certificates. The CLAP project, led by the company Meridia, aims to enable the issuance of 9,000 land documents (certificates and land use contracts) in Côte d'Ivoire for cocoa farmers in the districts of Divo, Guitry, Méagui, San Pedro, Taï, Guiglo and Bloléquin. Finally, FOA, a technical operator in Côte d'Ivoire, also has a similar program with Sucden and SACO, with a target of 600 certificates for this year. The World Bank and AFD also have projects working on land tenure security.

In general, the methodology for obtaining the land document is the same for these projects. It is mainly based on 3 main steps:

- Identification of the area / of the beneficiary producers

This step is important because the cost and feasibility of the land certification process are highly impacted by the social context of the area (presence or absence of existing conflicts over land) as well as by the fragmentation of the land (many small plots of land result in a much higher cost of certification per hectare). Thus, the actors mentioned above emphasize the proper selection of beneficiaries as a key criterion for success.

- Territorial awareness-raising to clarify the links of ownership and use of land

Land tenure security is not only an official document but also an agreement between the different land users. This is why the land certification process also relies on consultations and a review of customary rights as well as the physical demarcation of the land. Meridia works through the NGO AIA to carry out this process and to set up Village Rural Land Committees, which are responsible for managing the discussions leading to the official land use map. This step is intended to clarify the situation before the arrival of the land operator, which is the most costly step in the process.

- Intervention of the land operator

The land operator is an official surveyor company such as CETIF or CITRAT. This operator sends an investigating commissioner who will carry out the GPS surveys and also check that everything is in order with the neighbors. Following this, the file is then handed over to the administrative authorities who will take care of the procedures and deliver the certificate. This process can take several months.

Financing a certification process through cooperatives

As for the cost of the process, obtaining a certificate individually for a planter is much too expensive, since soliciting a land operator is an expensive service that can only pay for itself if the surveyor comes to reference a large number of plots. There is therefore an important economy of scale in carrying out the procedures for a large number of producers at the same time. For example, at the level of a section of a cooperative, i.e. at least 100 producers.

Depending on the actors interviewed, the costs differ, but taking everything into account, for the grouped certification of at least several hundred producers, the total cost is approximately 100,000 (€153) to 130,000 (€199) CFA francs per certificate, for plots of land between 3 and 10 hectares.

The land certificate is considered very important to the farmers and they would be willing to finance it through a medium-term repayable loan. The details of repayment (period, interest rate, amount and frequency of repayments) need to be studied in more detail in order to offer a financial product that is adapted to the economic situation of cocoa farmers.

It would seem that the cocoa cooperative is the most suitable actor to receive the credit, distribute it to the most appropriate producers, and collect the amounts. However, the cooperative must then be accompanied in the proper management of the credits. Indeed, although cocoa cooperatives already manage credit for their members (purchase of equipment and inputs, loans for end-of-year expenses, payment for work such as harvesting), and control the collection by deduction from cocoa volumes, credit for land certification would represent higher amounts and a more cumbersome organization. It is therefore important to strengthen and train the cooperative teams in order to carry out such a project.



Note financeurs

Pour le financement de
l'accompagnement à la certification
foncière

Novembre 2022



Les enjeux autour de la certification foncière

Avant le nouveau code forestier les producteurs ne profitaient pas des revenus des arbres forestiers présents dans leurs parcelles. Ce sont les concessionnaires forestiers qui avaient le droit de venir couper l'arbre, même sans l'accord du producteur, auquel cas ils reversent une somme dérisoire proche de 2'000 FCFA par arbre (et souvent rien du tout). Cette somme ne peut même pas couvrir les éventuels dégâts occasionnés sur la parcelle par l'exploitant forestier. Voilà pourquoi les planteurs voient les arbres forestiers comme des risques pour la plantation. Ce frein rend difficile l'adoption de pratiques de plantations d'arbres comme la densification des systèmes agroforestiers.

Le nouveau code forestier a changé cette situation, c'est le propriétaire de la terre qui a aujourd'hui la propriété de l'arbre, et donc le pouvoir de décision sur l'exploitation forestière. Cependant, il n'a été promulgué qu'en 2019, ce qui est très récent, et les décrets d'applications n'ont pas tous été promulgués empêchant de l'opérationnaliser complètement. Aucune démarche concrète n'a aujourd'hui été mise en place pour que les planteurs puissent profiter de ce changement de loi. D'autre part, la propriété des terres est le plus souvent informelle (droit coutumier). Pour un planteur de cacao il est généralement impossible de fournir un document officiel (certificat ou titre foncier) pour prouver qu'il est le propriétaire de la parcelle, et donc des arbres. De plus, dans le secteur du cacao, de nombreux planteurs sont des métayers et ne sont donc pas propriétaires de leur terre.

Afin de permettre aux producteurs de voir les arbres forestiers comme des opportunités (agronomiques et économiques), il est donc primordial de les accompagner dans la formalisation des droits fonciers. Ces points ont déjà été soulevés dans plusieurs études et articles^{1,2}. De plus, une étude menée au Ghana a aussi montré que l'obtention d'un certificat foncier était liée à une augmentation des revenus cacaos pour les planteurs : les producteurs bénéficiant d'une telle sécurisation seraient plus enclins à l'investissement, permettant de meilleurs rendements³.

Les différents types de documents fonciers

Dans le cas de la Côte d'Ivoire, il existe 3 types de documents fonciers :

- Le titre foncier
- Le certificat foncier
- Le contrat d'usage des terres

Selon la loi ivoirienne, seul le titre foncier est un document intangible et pérenne pour attester de la propriété d'une terre. Le certificat foncier est un document plus simple à obtenir car pas besoin des procédures d'immatriculation de la terre, mais moins « puissant » que le titre foncier, et qui est censé être temporaire jusqu'à l'obtention du titre définitif. Le contrat d'usage des terres quant à lui est un document officiel attestant qu'un propriétaire de la terre a accepté de signer un contrat d'usage des terres (métayage) avec un autre individu, selon des termes agréés entre les deux parties. En effet, il faut être de nationalité ivoirienne pour prétendre à l'obtention d'un titre foncier, ce qui pose problème pour les migrants qui représentent la majorité dans le secteur cacao.

¹ Cadre juridique de l'agroforesterie dans le domaine rural ivoirien, Avril 2021, EFI, Client Earth, REDD

² Production durable de cacao en Côte d'Ivoire : besoins et solutions de financement pour les producteurs, EFI

³ Exploring the Motivations and Role of Farmers in the Effective Implementation of Supply Chain Sustainability in Ghana and Côte d'Ivoire, June 2020, Climate Focus

Depuis quelques années, l'état ivoirien opère un assouplissement de la loi foncière dans le but de rendre le certificat foncier pérenne et aussi « puissant » que le titre foncier. En effet, la sécurisation foncière est une priorité pour le gouvernement, afin de garantir la paix sociale, mais les procédures amenant au titre foncier sont tellement compliquées et coûteuses que cela représente aujourd'hui le principal obstacle à la sécurisation. Ainsi, plusieurs projets ont pour but de démocratiser l'obtention de certificats fonciers et de contrats d'usage des terres, le titre foncier quant à lui est laissé de côté. L'esprit de l'action gouvernementale dans ce sens est donc de s'appuyer sur le **Certificat Foncier** comme formalisation pérenne des droits fonciers dans le domaine rural.

Etapas de l'accompagnement à la certification foncière

Plusieurs projets ont été réalisés ces dernières années pour accompagner les producteurs à l'obtention de documents fonciers.

Par exemple, Nitidae a mené un programme de ce type dans le cadre de son projet PRM, démarré en 2017 dans la Mé et dont l'objectif était la délivrance de 350 certificats fonciers. Le projet CLAP, mené par l'entreprise Meridia a pour objectif de permettre la délivrance de 9'000 documents fonciers (certificats et contrats d'usage des terres) en Côte d'Ivoire pour des planteurs de cacao dans les districts de Divo, Guitry, Méagui, San Pedro, Taï, Guiglo et Bloléquin. Enfin, FOA, opérateur technique ivoirien, a aussi un programme similaire avec Sucden et SACO, dont l'objectif est 600 certificats pour cette année. La Banque Mondiale et l'AFD ont aussi des projets travaillant sur la sécurisation foncière.

Dans les grandes lignes la méthodologie d'accompagnement à l'obtention du document foncier est la même pour ces projets. Elle repose principalement sur 3 étapes principales :

- Identification de la zone / des producteurs bénéficiaires

Cette étape est importante car le coût et la faisabilité du processus de certification foncière sont très impactés par le contexte social de la zone (présence ou non de conflits existants sur le foncier) ainsi que par le morcellement du foncier (de nombreuses petites parcelles entraînent un coût de certification beaucoup plus élevé par hectare). Ainsi, les acteurs cités plus haut mettent en avant la bonne sélection des bénéficiaires comme un critère clef de succès.

- Animation territoriale pour clarifier les liens de propriété et d'usage des terres

La sécurisation foncière ne consiste pas seulement en un document officiel mais aussi en un accord entre les différents usagers de la terre. Voilà pourquoi le processus de certification foncière repose aussi sur des consultations et une mise à plat des droits coutumiers ainsi que des délimitations physiques du foncier. Meridia passe par exemple par l'ONG AIA pour réaliser ce processus et monter des Comités Villageois du Foncier Rural, en charge de la gestion des débats pour mener à la carte officielle d'usage des sols. Cette étape doit permettre de clarifier la situation avant l'arrivée de l'opérateur foncier, qui est l'étape la plus coûteuse du processus.

- Intervention de l'opérateur foncier

L'opérateur foncier est une entreprise de géomètre expert officielle comme par exemple le CETIF ou le CITRAT. Cet opérateur envoie un commissaire enquêteur qui va réaliser les relevés GPS et aussi vérifier que tout est en ordre auprès des voisins. Suite à cela, le dossier est ensuite remis aux autorités administratives qui se chargeront des démarches et délivreront le certificat. Cette démarche peut prendre plusieurs mois.

Financer une démarche de certification via les coopératives

En ce qui concerne le coût de la démarche, obtenir un certificat de façon individuelle pour un planteur est beaucoup trop cher, puisque solliciter un opérateur foncier est un service onéreux qui ne peut s'amortir que si le géomètre vient référencer un grand nombre de parcelles. Il y a donc une économie d'échelle importante à réaliser les démarches pour un grand nombre de producteurs en même temps. Par exemple au niveau d'une section d'une coopérative, c'est-à-dire au moins 100 producteurs.

Selon les acteurs interrogés les coûts diffèrent, mais en prenant tout en compte, pour la certification groupée de plusieurs centaines de producteurs au moins, on arrive à un **coût total d'environ 100'000 à 130'000 francs CFA par certificat**, pour des parcelles entre 3 et 10ha.

Le certificat foncier est considéré comme très important pour les producteurs, ils seraient donc prêts à le financer par un crédit remboursable sur moyen terme. Les détails du remboursement (période, taux d'intérêt, montant et fréquence des remboursements) doivent être étudiés plus finement afin de proposer un produit financier adapté à la situation économique des cacaoculteurs.

Il semblerait que la coopérative de cacao soit l'acteur le plus adapté pour recevoir le crédit, le distribuer aux producteurs les plus indiqués, et recouvrir les montants. Cependant la coopérative doit alors être accompagnée pour la bonne gestion des crédits. En effet, bien que les coopératives de cacao gèrent déjà des crédits pour leurs membres (achat de matériel et intrants, prêts pour les dépenses de fin d'année, payer des travaux comme la récolte), et maîtrisent le recouvrement par ponction sur les volumes de cacao, les crédits pour la certification foncière représenterait des montants plus élevés et une organisation plus lourde. Ainsi il est important de renforcer et de former les équipes des coopératives afin de mener un tel projet.

No.	Section and page no. to which the question refers	Quote of the text to which the question refers	Question



Detail Request Form

LETTER OF ASSIGNMENT

IDH kindly requests that you complete the fields in this form so IDH has the details needed to create an accurate and complete contract. There is space below for additional information if needed.

The contents of this form will not be released to third parties without prior written notice and approval.


Please attach copies of the items listed below, as well as any other additional documentation that is necessary or requested:

- ☐ Chamber of Commerce Extract (or equivalent)
- ☐ Any other additional documentation that is necessary or requested.


Contracting process

After your contact person at IDH has received the details requested in this form, the contract will be drafted and send to you in PDF for a review. If there are any comments from your side, please inform your contact person at IDH. Once your contact person has received your approval, the draft version of the contract will be finalized. The contract will be signed and sent to you via DocuSign for your signature. Once both parties have signed the contract, the signed version will be shared with you in PDF.


1. Consultant Details

Company Name: 

Name of Consultant: 

Form and Country of Legal Incorporation: 

Registration Number: 

Name of Registration Authority: 

Registered Address: 

Name of Legal Signatory: 

2. Bank Details

Bank Name:

Country:

Account Name:

Account Number:

Routing / ABA Number:

SWIFT Code:

3. Additional Information

LETTER OF ASSIGNMENT ("AGREEMENT")

THE PARTIES:

IDH Sustainable Trade Initiative, a foundation under the laws of the Netherlands, registered with the Dutch Chamber of Commerce under number 53521129, having its registered office and its place of business at Arthur van Schendelstraat 500, (3511 MH) Utrecht, the Netherlands, in this matter duly represented by **Mr. Daan Wensing/ Ms. Lizet Friesen Leibbrandt**, hereinafter referred to as "**IDH**", and;

[Name Partner], a [form of legal incorporation] under the laws of [name country], registered with the [name National Registration Authority] under number [registration number], having its registered office and its place of business at [address], [name country], in this matter duly represented by Mr./Mrs. [name representative], hereinafter referred to as the "**Consultant**".

IDH and the Consultant also together referred to as the "**Parties**" and individually as "**Party**".

HEREBY AGREE AS FOLLOWS:

1. The IDH General Terms and Conditions for Services (attached hereto as Annex 1) (hereinafter referred to as the "**IDH General Terms and Conditions**") apply to this Agreement between IDH and the Consultant.
2. Unless otherwise specifically agreed to by the Parties, in the event of any conflict between the terms of this Agreement and its annexes, the following order of precedence will be applied: i) the terms of this Agreement; ii) the IDH General Terms and Conditions; iii) the Proposal; iv) other annexed documents, if relevant.

Scope of Services

3. The Consultant will provide services to IDH with regard to insert generic type of services (the "**Services**"), in accordance with the proposal enclosed to this letter as Annex 2 (the "**Proposal**"), which includes the approved budget and planning, all of which are integral part of this Agreement. The Services shall consist of the following:
 - I. example
 - II. example
 - III. example

This will result in the following deliverables:

- I. example
 - II. example
 - III. example
4. The Services by the Consultant will be completed before date.
 5. The Consultant hereby agrees that the Services under this Agreement shall actually be performed by the following project team: insert name(s). Notwithstanding the individual(s) assigned to the Services, the Consultant remains responsible and liable for the Services under this Agreement.

Payment

6. For the satisfactory completion of the Services in compliance with the Proposal, the Consultant is entitled to a payment of EUR [amount] (including VAT and all applicable other taxes), based on consultancy fees calculated in the budget.
7. If IDH and the Consultant agree that additional time is needed to complete the Services, Parties will confirm their agreement to the amount of additional time needed in an addendum to this Agreement. The Parties agree that the rates used in calculating the cost of such agreed additional time spent by the Consultant on the Services will be in accordance with the rates set out in the Proposal.
8. The Consultant will invoice the amount due in two equal parts: the first invoice (which includes an advance payment for any expenses included in the Proposal) may be sent after signing of this Agreement, the second invoice can be sent after IDH's written approval of satisfactory completion of Services. The second invoice should include a settlement of the actual expenses made: in the event the Consultant spends less than the expenses budgeted in the Proposal, the actual costs shall be settled accordingly with the final invoice. The invoices shall make specific reference to the contract number [Salesforce number] and be sent by email to: 'invoice@idhtrade.org'.
9. Any expenses made within the scope of this assignment shall only be reimbursed against original receipts, to be provided to IDH by the Consultant together with the final invoice. Any additional expenses not contained in the Proposal must be approved by IDH in writing, prior to making the expenses.
10. All funds provided by IDH will be transferred and disbursed to the Consultant at the following bank account:

Bank Name:	Name bank + country
Account Name:	•
Account Number:	•
Routing/ABA Number:	•
SWIFT Code:	•

Intellectual Property

11. The Consultant acknowledges that IDH is and maintains to be the owner of all intellectual property arising from the performance of this Agreement, including but not limited to copyrights, database rights, trademarks, patents and know how (the **"Arising Intellectual Property"**).
12. Any Arising Intellectual Property vested in the Consultant is hereby transferred, assigned and delivered to IDH (in advance), including the right to publicly communicate about the Project. The aforementioned transfer, assignment and delivery is hereby accepted by the Consultant and IDH (in advance).

Exclusivity

13. This is a non-exclusive Agreement and it preserves the right of each Party to work independently or with other persons or organisations on other programs or programs covering activities similar or identical to the subject of this Agreement anywhere in the world.
14. Nothing in this Agreement shall be construed as constituting the Parties as partners or as creating between such parties the relationships of employer and employee.

Duration

15. The Agreement will be effective as from date and shall terminate automatically on date, unless extended by the Parties in writing.
16. Any Party may exit the Agreement before the end of the term of the Agreement, subject to 30 days written notice.
17. The rights and obligations of the Parties which by nature are meant to survive this termination, shall not terminate on this date.

SIGNATURE PAGE FOLLOWS

SIGNED BY THE PARTIES FOR AGREEMENT:

For IDH

Name Mr. Daan Wensing/ Ms. Lizet Friesen Leibbrandt

Position: CEO/ CFO

Date: _____

For the Consultant

Name:

Position:

Date: _____

Attached to and integral part of this Agreement are:

Annex 1: IDH General Terms and Conditions for Services

Annex 2: insert name Proposal

IDH SUSTAINABLE TRADE INITIATIVE GENERAL TERMS AND CONDITIONS for services

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These General Terms & Conditions for services of IDH Sustainable Trade Initiative ("IDH") state the rights and obligations of both the contracting party and IDH regarding their cooperation in general. Specific rights and obligations are agreed to in a separate agreement between the contracting party and IDH.

I. GENERAL CONDITIONS

1. DEFINITIONS

1.1. In these General Terms and Conditions of IDH Sustainable Trade Initiative, the following definitions apply:

"IDH": Stichting IDH Sustainable Trade Initiative, a foundation under the laws of the Netherlands, registered with the Dutch Chamber of Commerce under number 53521129, having its registered office and its place of business at Arthur van Schendelstraat 500 (3511 MH) Utrecht, the Netherlands.

"Contracting Party": The party (or parties) that has/ have been awarded an assignment by IDH for providing services.

"Party" / "Parties": IDH and the Contracting Party individually and collectively.

"Affiliates": affiliates and/or subsidiaries (*groeps- en/of dochtervennootschappen*) within the definition of section 2:24 a and b of the Dutch Civil Code (*Burgerlijk Wetboek*);

"IDH General Terms and Conditions for services": The terms & conditions in this document.

"Letter of Assignment": the specific agreement (and all amendments thereto) between IDH and the Contracting Party in which IDH and the Contracting Party agree that the Contracting Party will provide services for IDH (under section 7:400 of the Dutch Civil Code ('overeenkomst van opdracht')).

"Entire Agreement": The IDH General Terms and Conditions for services and the Letter of Assignment together, as well as any annexes or other documents and terms and conditions which are applicable to the relationship between IDH and the Contracting Party ('Additional Conditions') and to which the Letter of Assignment expressly refers.

"Services": The services to be performed by the Contracting Party pursuant to the Letter of Assignment.

2. APPLICABILITY OF THE IDH GENERAL TERMS AND CONDITIONS FOR SERVICES

2.1 The IDH General Terms and Conditions for services apply to the Entire Agreement between the Contracting Party and IDH. The applicability of any of the Contracting Party's conditions or other conditions is expressly excluded.

2.2 IDH has the right to change or add to the IDH General Terms and Conditions for services. IDH

will notify the Contracting Party of any changes and/or additions before they take effect.

- 2.3 In case of inconsistencies between the General Terms & Conditions and the Letter of Assignment, the Letter of Assignment will prevail over the General Terms & Conditions.

3. LIMITATION OF LIABILITY

- 3.1 IDH cannot be held liable for damages, losses and/or personal injury suffered by the Contracting Party and/or any third party resulting from the execution of the Entire Agreement, including any infringement of intellectual property rights. In addition, either Party's liability for consequential damage, consequential loss, lost profits, lost savings, loss of goodwill, damage through business interruptions or damage ensuing from claims by third parties - whether based on contract, tort or otherwise - shall be excluded. The limitations of liability mentioned in this clause, or elsewhere in the Entire Agreement, shall not apply if and insofar as the damage or injury is the result of the willful intent or deliberate recklessness by the Parties or their executives.

4. INDEPENDENCE

- 4.1 The Contracting Party is not a legal signatory for IDH and does therefore not have the mandate to sign any contracts or other legally binding documentation on behalf of IDH.
- 4.2 The Entire Agreement does not, in any way, constitute an employment agreement between the Contracting Party and IDH. Therefore the Contracting Party shall be fully responsible for the payment of all taxes, social security and other costs and obligations. IDH cannot be held liable for any financial claims in this respect.

5. FRAUD AND CORRUPTION

- 5.1 The Parties are aware of the IDH Code of Conduct (which can be found [here](https://www.idhsustainabletrade.com/policies), or via the 'Our policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>). The IDH Code of Conduct provides the ethical framework in which IDH and any party contracted by IDH must operate. It provides an overview of the values, commitments, responsibilities and integrity that IDH stands for. IDH expects its business partners to apply similar standards of conduct when providing services for IDH.
- 5.2 The Parties will not offer to third parties or seek or accept from third parties, for themselves or for any other party, any gift, remuneration, compensation or benefit of any kind whatsoever, which would be deemed corrupt or illegal.
- 5.3 The Parties will refrain from providing any form of support to activities that have the goal of undermining the political independence of a state, or unlawfully overthrowing a lawful government. The 'lawfulness' (or unlawfulness)

referred to in this clause is not solely defined by the opinions or views of the government in question, but is also defined by international standards and/or international law.

- 5.4 IDH partners and persons associated with IDH projects who become aware or suspect the existence of fraud, corruption or bribery shall bring it to the attention of IDH.

6. CONFLICT OF INTEREST

- 6.1 The Contracting Party and/ or any subcontracted third party will inform IDH in writing without delay in the event there are any (potential) conflicts of interest relating to the activities under the Entire Agreement. Such party shall immediately take all necessary steps to resolve the (potential) conflict of interest. IDH reserves the right to verify whether the measures taken are appropriate and may require additional measures to be taken if necessary.
- 6.2 For the avoidance of doubt, a (potential) conflict of interest shall include all activities that would lead to and partial and/ or non- objective performance of the Entire Agreement.

7. DATA AND PRIVACY

- 7.1 The privacy statement for business partners and consultants can be found [here](https://www.idhsustainabletrade.com/policies) or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>.

8. PROCESSING OF PERSONAL DATA

- 8.1 With regards to the processing of personal data under the Agreement, within the meaning of Article 4 (2) of the General Data Protection Regulation ("GDPR"), both Parties are deemed to be controller within the meaning of Article 4 (7) GDPR.
- 8.2 Parties shall:
- a. process personal data in accordance with applicable laws and regulations regarding the processing of personal data, including but not limited to the GDPR;
 - b. provide each other reasonable cooperation and assistance, for example with respect to the handling of requests of data subjects and the performance of data protection impact assessments, to ensure that each Party complies with applicable laws and regulations.
- 8.3 The Contracting Party shall:
- a. only process personal data of data subjects in order to comply with its obligations under

the Agreement and not for any other purposes;

- b. limit the provision of personal data to IDH to what is strictly necessary to fulfill its obligations under the Agreement;
- c. inform the data subject with respect to the processing of personal data by both Parties in accordance with the GDPR. Upon request IDH shall provide relevant information for the provision of such information;

8.4 Upon detection of a personal data breach as defined under article 4 of the GDPR ("Data Breach") with respect to the Personal Data, the Contracting Party shall promptly notify IDH of said Data Breach, and shall ensure that the Data Breach is handled and data subjects and/or supervisory authorities are notified in accordance with the GDPR.

8.5 The Contracting Party shall fully indemnify and hold IDH harmless from and against any and all damages, loss, costs, fines from regulatory or supervisory authorities, charges, expenses, legal fees and disbursements and any other liabilities suffered as a result of or in connection with the processing of personal data and any breach of this Agreement by [Consultant/ the Contracting Party] or its employees or other representatives.

9. ICSR

9.1 The Contracting Party aims to cooperate in the Program in a manner that is compatible with the *ICSR Policy* of IDH, which can be found [here](https://www.idhsustainabletrade.com/policies), or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>.

10. COMPETITION COMPLIANCE

10.1 The Contracting Party specifically acknowledges that IDH works in compliance with competition laws and principles as set out in IDH's *Competition Compliance Policy*, (which can be found [here](https://www.idhsustainabletrade.com/policies), or via the 'Our policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>) IDH and the Contracting Party, individually and collectively, shall not engage in any behavior that restricts competition. IDH and the Contracting Party are free to enter into any agreements with third parties.

11. SAFEGUARDING

11.1 The Parties are aware of the IDH Safeguarding Policy (which can be found [here](https://www.idhsustainabletrade.com/policies), or via the 'Our

Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>).

11.2 The Parties have a zero-tolerance approach towards any form of sexual exploitation, abuse and harassment. The Contracting Party will comply with IDH's Safeguarding Policy and shall take all reasonable steps to prevent the sexual exploitation, abuse and harassment of any person linked to the execution of the Entire Agreement by both its employees and any third party subcontracted in relation to the execution of activities under the Entire Agreement.

11.3 The Contracting Party shall immediately report to IDH any breach of the Safeguarding Policy and credible suspicions of, or actual incidents of sexual exploitation, abuse or harassment related to the Entire Agreement. The Contracting Party will assess credibility based on the source of the allegation, the content, and the level of detail or evidence provided. The Contracting Party can use the reporting mechanisms described in articles 12.1 and 12.2 below.

11.4 The Contracting Party shall also report any credible suspicions of, or actual incidents that are not directly related to the Entire Agreement but could be of significant impact to IDH's reputation or partnerships with its donors. The Contracting Party can use the reporting mechanisms described in articles 12.1 and 12.2 below.

11.5 The Parties will fully co-operate with investigations into such incidents.

11.6 If the Contracting Party fails to comply with the IDH Safeguarding Policy or commits a breach of any of the terms included in article 11 IDH has the right to immediately terminate the Entire Agreement without the risk of incurring liability for damages or compensation.

12. SPEAKUP

12.1 IDH is committed to conducting its work with honesty, dignity, fairness and with respect for each other and the law. The Contracting Party is encouraged to report to IDH any (suspected) violation by the Contracting Party's staff, IDH's staff or third parties of IDH's values and principles included in IDH's Code of Conduct, other IDH policies or laws or regulations that has occurred or may occur in relation to the Entire Agreement. The Contracting Party can report this directly to its contact person at IDH, to IDH's

Executive Board or by using IDH's SpeakUp line.

12.2 IDH's SpeakUp line can be accessed online or by phone. Click [here](#) for a list of free phone numbers in each country or to report online. For more information, please refer to the SpeakUp policy (which can be found [here](#), or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>).

12.3 The Contracting Party shall promote the IDH SpeakUp line with its employees and any third party related to the execution of activities under the Entire Agreement, as well as the individuals and communities directly affected by the activities under the Entire Agreement. The Contracting Party shall use the communications materials provided by IDH (which can be found [here](#), or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>).

II. **PERFORMANCE OF THE SERVICES**

13. RESPONSIBILITIES OF THE CONTRACTING PARTY

13.1 The Contracting Party is responsible for execution, coordination and results of the Services, as well as reporting on the Services to IDH, as agreed between the Parties in the Letter of Assignment. The Contracting Party must do so with the necessary care and transparency, and in accordance with the terms and conditions of the Entire Agreement.

13.2 The Parties agree to define "satisfactory completion of the Services" under the Letter of Assignment as the Contracting Party providing IDH with the deliverables described in the proposal attached to the Letter of Assignment and approval of these deliverables by IDH in writing (e-mail included). If satisfactory completion of the Services is not (fully) achieved, IDH shall have the right to adjust future payment, terminate payment and/or demand repayment of any payment, proportionate to the budget of the uncompleted (part of) the assignment.

14. DELAYS, UNFORSEEN CIRCUMSTANCES, CHANGES TO THE SERVICES

14.1 The Parties are obliged to promptly inform each other and consult with each other regarding any (suspected) changes in circumstances or irregularities that may affect the performance of the Services, and/or affect compliance with the Entire Agreement. Such notifications should include the financial interests involved (if

applicable) as well as mitigating measures taken.

15. COMPLIANCE WITH LOCAL LAWS

14.1 In the performance of the Services, the Contracting Party must comply with all applicable laws and respect internationally recognized human rights, multilateral environmental agreements and internationally agreed core labor standards.

15.2 In the event of conflict between applicable laws and internationally recognized human rights, multilateral environmental agreements and/or internationally agreed core labor standards, the Contracting Party shall seek ways to respect the principles of internationally recognized human rights, multilateral environmental agreements and/or internationally agreed core labor standards to the greatest extent possible given the circumstances.

15.3 In case a breach of article 15.1 occurs or such actual or potential conflict, as referred to in article 15.2, arises under the Entire Agreement, the Contracting Party shall immediately inform IDH in writing of the breach or of the actual or potential conflict and must request IDH's approval prior to continuing the performance of Services.

16. THIRD PARTY COMPLIANCE

16.1 The Contracting Party will not assign the Entire Agreement or transfer any right or obligation thereunder to an Affiliate or any third party without the prior written consent of IDH.

16.2 The Contracting Party will ensure that any and all of the terms and conditions in the Entire Agreement shall be incorporated in equivalent contract terms in any sub-contract between the Contracting Party and a third party related to the execution of activities by the Contracting Party under the Entire Agreement. Any engagement of the Contracting Party with third parties in relation to the Letter of Assignment must be in writing and will not relieve the Contracting Party of its responsibility for the third parties' performance.

17. INSURANCES

17.1 The Contracting Party is responsible for their own insurances, social premiums, income tax and any other levies related to the Project regarding their performance of the activities related to their roles and responsibilities under the Entire Agreement.

18. GOOD ADMINISTRATION

18.1 In order to provide proof that the activities under the scope of the Services have indeed been executed as agreed to between IDH and the Contracting Party in the Letter of Assignment, as well as for the purpose of good governance in general, the Contracting Party is required to

have and maintain a proper and transparent (financial) administration and management.

19. RIGHT TO AN ADDITIONAL AUDIT

19.1 IDH, or any third party nominated by IDH, shall have the right to carry out audits of the Contracting Party's and/or subcontracted third parties' records to verify compliance with the provisions of the Entire Agreement, as may be relevant. IDH shall further be entitled to carry out audits of the Contracting Party's and/or subcontracted third parties' books and records insofar as they relate to the Services under the Entire Agreement and the manner in which the Services have been performed by the Contracting Party. In this respect, IDH, or any third party nominated by IDH, shall have access to all records, including systems and computers where information is stored electronically, and to all other material and records related to the performance of the Entire Agreement. Such information will be treated as confidential and will be used exclusively for auditing. Information once verified will not be used for any other purpose without the prior written consent of the party to whom it relates. Any extra costs related to an additional audit referred to in this clause shall be agreed to between the Parties in writing.

19.2 The Contracting Party shall maintain the material and records referred to in clause 17.1 until expiry of a period of two (2) years from the date of termination of the Entire Agreement or for the length of time required under the applicable law, whichever is longer.

III. FINANCIAL CONDITIONS

20. FUNDING BY IDH

20.1 IDH reserves the right to adjust any future installments due to the Contracting Party, or to (proportionally) reassign or reclaim any amount already transferred to the Contracting Party, in the event that the Contracting Party, without the prior written consent of IDH, does not fulfil, or not fulfil on time, its obligations under the Entire Agreement.

21. EXCHANGE RATES

21.2 For all payments made by IDH to the Contracting Party under the scope of the Letter of Assignment, the exchange rate of the day of receipt by the Contracting Party of the IDH's contribution(s) is applicable.

22. TRANSFER OF FUNDS & PAYMENT CONDITIONS

22.1 Payment requests sent to IDH by the Contracting Party must contain the total amount to be transferred and a reference to the IDH contract number (in Letter of Assignment) that the payment relates to. Payment will be made

by IDH within 45 days after receiving a payment request, provided such is in accordance with the terms and conditions in the Entire Agreement.

22.2 IDH is an organization that is dependent on funding from multiple donors and subject to various levels of (government) approvals for payments. IDH will use its best efforts to transfer the payment to the Contracting Party on time in accordance with the Entire Agreement. However, a late payment by IDH, notwithstanding IDH's best efforts, that is later than 45 days but no more than 60 days later than the date of the payment request, will not be considered a breach of the Entire Agreement. For payments received later than 60 days, the Contracting Party has the right to adapt the planning of the Services to ensure, to the extent possible, uninterrupted delivery of the deliverables agreed to in the Letter of Assignment. The Contracting Party must notify IDH of the adapted planning as soon as possible.

IV. CONFIDENTIALITY

23. CONFIDENTIALITY

23.1 It is understood and agreed to that certain information may be provided to the Contracting Party by IDH and/or any other parties, in the context of this assignment, that is and must be kept confidential. Both during the term of this Agreement and after the termination thereof, for whatever reason, the Contracting Party or its substitute shall refrain from disclosing, in any way whatsoever and to any other party, any information of a confidential nature regarding IDH's activities which has come to the Contracting Party's or its substitute's attention in the course of performing the Services under this Agreement and whose confidential nature is clear or should reasonably be clear. This obligation shall apply, by way of example and without limitation, to any technical, financial and other information, the names of partners, proposed transactions, computer software, computer systems and databases, patent and/or trade secret laws.

V. INTELLECTUAL PROPERTY

24. INTELLECTUAL PROPERTY

24.1 If IDH's donors, or the governments they may relate to, request use of reports, documentation, studies, publications, logo's or other material that is Arising Intellectual Property belonging (jointly) to IDH or free to use by IDH, IDH is free to share such information with the donor freely and without the consent of the Contracting Party.

24.2 Nothing contained in this Entire Agreement shall affect the absolute and unfettered rights of each

Party in all materials, inventions, discoveries and intellectual property owned or controlled by that Party independently of the subject matter of the Entire Agreement (the “**Background Intellectual Property**”).

24.3 Each Party (the “**Indemnifying Party**”) will indemnify and hold the other Party (the “**Indemnified Party**”) harmless from claims of third parties as a consequence of infringement of intellectual property rights of said third party, provided that the Indemnified Party informs the Indemnifying Party immediately in writing of the existence and content of the alleged right to claim. The aforementioned obligation to indemnify and hold harmless lapses if and insofar as the concerned infringement is related to modifications in the intellectual property rights made by the Indemnified Parties, or by third parties mandated by the Indemnified Party.

VI. **TERM & TERMINATION**

25. **TERM**

25.1 The Entire Agreement takes effect on the starting date agreed to between the Parties in the Letter of Assignment. The Entire Agreement ends on the end date agreed to between the Parties in the Letter of Assignment or if the Entire Agreement is terminated in accordance with the terms and conditions in the Entire Agreement. If the end date agreed to in the Letter of Assignment is exceeded yet the obligations of the Contracting Party have not been met, the Entire Agreement will remain in effect until all obligations have been met by the Contracting Party or the Entire Agreement is terminated, whichever is earlier.

26. **AMENDMENT & TERMINATION**

26.1 The terms and conditions of the Letter of Assignment can be amended only if the Parties agree to such amendment in writing.

26.2 IDH is an organization that is dependent on funding from multiple donors. In the event that IDH's donors terminate or materially change their funding of IDH, IDH and the Contracting Party individually and collectively have the right to terminate the Entire Agreement with immediate effect and without the risk of incurring liability for damages or compensation.

26.3 Either Party to the Agreement may terminate the Agreement immediately without the risk of incurring liability for damages or compensation, in the event that:

- a. the other Party fails to remedy any breach of its obligations under the Agreement within 30 days of written notification requiring it to do so;
- b. suspected fraud, or other illegitimate circumstances exist to such an extent that

IDH considers the Contracting Party to be at fault or grossly negligent and further continuation of the Services is not possible or of too much risk. Written notice of termination shall be provided in this case, stating the applicable circumstances;

- c. the other Party files a petition for bankruptcy or is declared bankrupt; or has a liquidator, receiver, trustee or administrator appointed to it; or becomes insolvent; or admits its inability to pay its debts as they fall due.

26.4 A late payment by IDH, notwithstanding IDH's best efforts, that is no more than 60 days later than the date of the payment request, will not be considered a breach of the Agreement.

VII. **APPLICABLE LAW & DISPUTE RESOLUTION**

27. **APPLICABLE LAW**

27.1 The Entire Agreement is governed by the laws of the Netherlands.

28. **DISPUTE RESOLUTION**

28.1 Any dispute arising from or in connection with this Agreement which cannot be resolved amicably shall be submitted exclusively to the district court in Utrecht, the Netherlands, and each Party to this Agreement hereby submits irrevocably to the jurisdiction of such court.

Statement of acceptance

By signing this statement of acceptance, the Applicant accepts the IDH General Terms and Conditions for Services as well as the provisions of the draft Letter of Assignment.

Name Applicant:

Name signatory:

Position:

Date:

Signature*:

**This statement shall be signed by a person with authority to represent the Applicant as appears from the Dutch Trade Register (Kamer van Koophandel) or a comparable trade register in the Applicant's country of registration.*

Statement of Integrity, Eligibility and Social and Environmental Responsibility

Reference name of the bid or proposal: 234458 TAF LDN 1.3.1 (The "**Contract**")

To: IDH, The Sustainable Trade Initiative (The "**Contracting Authority**")

- 1) We recognise and accept that *Agence Française de Développement* ("AFD") only finances projects of the Contracting Authority subject to its own conditions which are set out in the Financing Agreement which benefits directly or indirectly to the Contracting Authority. As a matter of consequence, no legal relationship exists between AFD and our company, our joint venture or our suppliers, contractors, subcontractors, consultants or subconsultants. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
- 2) We hereby certify that neither we nor any other member of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations:
 - 2.1) Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;
 - 2.2) Having been:
 - a. convicted within the past five years by a court decision, which has the force of *res judicata* in the country where the Contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract (in the event of such conviction, you may attach to this Statement of Integrity supporting information showing that this conviction is not relevant in the context of this Contract);
 - b. subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where we are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract (in the event of such sanction, you may attach to this Statement of Integrity supporting information showing that this sanction is not relevant in the context of this Contract);
 - c. convicted within the past five years by a court decision, which has the force of *res judicata*, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD-financed contract;
 - 2.3) Being listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;



- 2.4) Having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
- 2.5) Not having fulfilled our fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where we are constituted or the Contracting Authority's country;
- 2.6) Being subject to an exclusion decision of the World Bank and being listed on the website <http://www.worldbank.org/debarr> (in the event of such exclusion, you may attach to this Statement of Integrity supporting information showing that this exclusion is not relevant in the context of this Contract);
- 2.7) Having created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of this Contract.
- 3) We hereby certify that neither we, nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations of conflict of interest:
- 3.1) Being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;
- 3.2) Having a business or family relationship with a Contracting Authority's staff involved in the procurement process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;
- 3.3) Being controlled by or controlling another bidder or consultant, or being under common control with another bidder or consultant, or receiving from or granting subsidies directly or indirectly to another bidder or consultant, having the same legal representative as another bidder or consultant, maintaining direct or indirect contacts with another bidder or consultant which allows us to have or give access to information contained in the respective applications, bids or proposals, influencing them or influencing decisions of the Contracting Authority;
- 3.4) Being engaged in a consulting services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;
- 3.5) In the case of procurement of goods, works or plants:
- i. Having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation to be used in the procurement process of this Contract;



- ii. Having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
- 4) If we are a state-owned entity, and to compete in a procurement process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
 - 5) We undertake to bring to the attention of the Contracting Authority, which will inform AFD, any change in situation with regard to points 2 to 4 here above.
 - 6) In the context of the procurement process and performance of the corresponding contract:
 - 6.1) We have not and we will not engage in any dishonest conduct (act or omission) deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit;
 - 6.2) We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit;
 - 6.3) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any Person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the Person occupies, (ii) any other Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service, or (iii) any other person defined as a Public Officer by the national laws of the Contracting Authority's country, an undue advantage of any kind, for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity;
 - 6.4) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any Person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another Person or entity for such Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations;
 - 6.5) We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti-competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings;



6.6) Neither we nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France;

6.7) We commit ourselves to comply with and ensure that all of our suppliers, contractors, subcontractors, consultants or subconsultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the environmental and social commitment plan (ESCP) provided by the Contracting Authority.

- 7) We, as well as members of our joint venture and our suppliers, contractors, subcontractors, consultants or subconsultants authorise AFD to inspect accounts, records and other documents relating to the procurement process and performance of the contract and to have them audited by auditors appointed by AFD.

Name: _____ In the capacity of: _____

Duly empowered to sign in the name and on behalf of: _____

Signature: _____ Dated: _____

¹In case of joint venture, insert the name of the joint venture. The person who will sign the application, bid or proposal on behalf of the applicant, bidder or consultant shall attach a power of attorney from the applicant, bidder or consultant.